



Crl.O.P.No.11198 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.11198 of 2025
and Crl.M.P.No.7502 of 2025

1.Durai @ Duraiyan

2.Vishnukumar

3.Saravanan

... Petitioners

Vs

1. State represented by
The Inspector of Police,
Palacode Police Station,
Dharmapuri District.

2.Rangammal

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 Bharatiya
Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to a case in
FIR No.349 of 2023 on the file of the first respondent and quash the same.

For Petitioners : Mr.M.Ranjith Kumar

For R1 : Mr.A.Gopinath

Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in
Crime No.349 of 2023 on the file of the first respondent police.



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2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. The case of the prosecution is that, the defacto complainant is the owner of the property comprised in S.No.191/4A and 191/5A situated at P.Kollaali Village, Palacode Taluk, Dharmapuri District. She had intended to sell the said property to meet her urgent family needs. While being so, the first accused approached the defacto complainant under the guise of being a financier and offered to pay a sum of Rs.2 Crores for the said property. Thereafter, the first accused deceived the above said property from the defacto complainant and paid a sum of Rs.4,54,440/- and failed to pay the remaining sale consideration. It is further alleged that A1 had executed a sale deed in favour of A3, who in turn sold out the property to A4. Thus, all the accused colluded together and cheated the defacto complainant. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.349 of 2023 for the offence punishable under Section 420 of IPC.



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5. The learned counsel for the petitioner would submit that the petitioners are arrayed as A2 to A4. The defacto complainant sold out the property in favour of A1, who in turn sold out the property to A2. Subsequently, A2 also sold out the property to A3 and A4. Therefore, there are no specific allegations as against the petitioners herein. Even according to the defacto complainant, the first accused, without paying the total sale consideration to the defacto complainant, registered the subject property in his favour and in turn, sold out the same to the petitioners.

6. A perusal of FIR revealed that there are specific allegations to attract the offence under Section 420 of IPC as against the petitioners. The first accused is none other than a land broker. After registration of sale deed in his favour, immediately registered the sale deed in favour of the first petitioner herein.

7. That apart, now, it is in FIR stage, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in its threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court



cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

8. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekhar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019*** dated **12.02.2019**) held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with the view to taking cognizance of the offence whether a *prima facie* case has been made out for summoning the accused person. The learned Magistrate is not required to evaluate the merits of the materials or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to conviction or not. Only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive, the complaint/FIR can be taken for consideration for quashment. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by Magistrate, it can be considered for quashment. Therefore, it is not necessary that a meticulous analysis of the case should be done before the



trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification to interfere. At the initial stage of issuance of process, it is not open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Therefore, the criminal complaint cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.

9. Further the Hon'ble Supreme Court of India issued directions in the judgment reported in **2021 SCC Online SC 315** in the case of ***M/s.Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra & ors.***, as follows :-

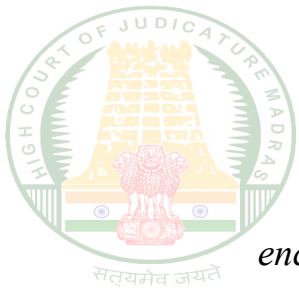
“23. 7

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

xii) *The first information report is not an*



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encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

.....

(xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;”

10. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.349 of 2023, on the file of the respondent police. The first respondent is directed to complete the investigation



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in Crime No.349 of 2023 and file a final report, within a period of eight weeks from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous petition is closed.

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Internet:Yes

Index:Yes/No

Speaking/Non speaking order

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G.K.ILANTHIRAIYAN. J.

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To

1. The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
2. The Public Prosecutor,
High Court, Madras.

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